

## MEETING RECORD

**NAME OF GROUP:** City Board of Zoning Appeals

**DATE, TIME AND**

**PLACE OF MEETING:** Friday, September 28, 2001, 1:30 p.m., Council Chambers, 555 South 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS AND OTHERS**

**IN ATTENDANCE:**

**Members:** Linda Wibbels, George Hancock, Gene Carroll, and Tom Wanser

**Others:** Rick Peo (Law Dept.), Rodger Harris (Bldg & Sfty), Jason Reynolds and Missy Minner (Planning Dept), applicants and other interested parties.

**STATED PURPOSE**

**OF THE MEETING:** Regular Meeting of the City Board of Zoning Appeals

Chair Hancock called the meeting to order and requested a motion approving the minutes of the August 31, 2001 meeting. Motion for approval made by Wibbels, seconded by Carroll. Motion for approval carried 4-0, Wibbels, Carroll, Wanser, and Hancock voting 'yes'.

### **City Board of Zoning Appeals No. 2315**

**Requested by Mark Hunzeker, on behalf of property owner, for a variance to the front yard setback on property located at 4300 Cornhusker Highway.**

**PUBLIC HEARING**

**September 28, 2001**

Members present: Wibbels, Wanser, Hancock, and Carroll

Mark Hunzeker, appeared on behalf of the property owner Jerry Joyce. The apartments have been there for nearly 30 years. The area has always had a minimal amount of parking. The front buildings were previously zoned commercial and had to be rezoned, so it is possible that the others rezoned were as well. The parking requirements were about 1 stall per unit at that time, with the parking that has been added it is now around 1.7 stalls per unit.

Mr. Joyce began a renovation of the complex last year. One of the improvements was the installation of additional parking. They chose the location of the additional parking based on the assumption that, since the property is addressed off Cornhusker Highway, the area was in the rear yard. It is actually the front yard.

In this area it is not uncommon for people to park in the front yard, on the street, or in the middle of Edison Circle. Another unique feature of the area is that the surrounding area is zoned R-2, which allows up to 35% of the front yard to be used for parking.

The additional parking has improved the parking situation, look, and function of the area. The criteria of the ordinance have been met. Mr. Joyce has developed many dwelling units in the past 30 years, this is his first request for a variance and his first code violation. Had there not been the misunderstanding with the addressing and front yard, he would have requested the variance before the concrete was poured.

The applicant is working with the City to see about the possibility of leasing the City right-of-way that a substantial portion of one of the stalls on the east and a small corner of one on the west side extend into.

Carroll asked if a permit was taken out for the construction of the parking lot. Hunzeker indicated that a permit was not required because this is additional parking, rather than required parking. Harris stated that a parking lot is defined as 6 or more parking spaces. Therefore, this is considered a parking lot and would have required a building permit.

Wibbels asked if the definition of a parking lot requires the six stall to be contiguous. Harris explained that the definition does not use that language. He believes this meets the definition of a parking lot.

Hancock asked if they have explored the issue with the design standards. Hunzeker had not talked with Public Works prior to the meeting, but that seemed fairly simple and straightforward and would be processed separately. It would be possible for the City not to waive the design standard, even if a variance is granted.

Wanser asked what the setback requirement would have been 30 years ago. Hunzeker guessed it would have been around 20 feet. This property was on more than one lot when it was originally built, he was not sure how that would affect this. The driveway appears to be a vacated street, but he was not positive of that.

Charlie Ems, 6608 Logan Avenue appeared. He owns three complexes next to this property. Approximately 1.5 stalls sit in front of one of his buildings. He was amazed that they had been allowed to do this. Then he found out that they weren't really allowed. This looks bad and he is very much not in favor of it. He rents to a former renter of Mr. Joyce who told him that Mr. Joyce charges renters \$15 for a second parking stall. Parking doesn't seem to be the issue for him, it seems that he wants to make money on it. There are no windows on his building that face the parking stalls. The front bumper of a vehicle parked in this stall would be about 20-25' from his building.

Hunzeker stated that there is a landscaped area between the parking stall and Mr. Ems' building. The stalls are basically in line with the east/west right-of-way line of the street, except where it curves to the north. They do not charge for parking, except for rental of a garage, as most apartments do.

Joyce clarified that he does charge for garages. He issues a parking permit to his tenants and has a few spaces designated for visitor parking. This seems to be working pretty well for the first time in 30 years.

With no one further appearing, the public hearing was closed.

## **ACTION**

**September 28, 2001**

Members present: Wibbels, Wanser, Hancock, and Carroll

Wanser moved approval, seconded by Wibbels.

Wanser moved approval because this enhances the neighborhood by providing parking for five cars. He also felt that they could in essence "pass the buck" since the applicant will still have to get a waiver of the

15' site penetration requirement.

Wibbels was in favor of this because the definition of a parking lot is not clear. She can see how this happened.

Carroll indicated that he would vote against this because the issue could have been addressed if they had taken out a building permit a year ago. He does not want to force Public Works to make the decision on this. The site penetration problems obstruct the ability to see down the street. Additionally, the owner is not harmed significantly by not having those stalls.

Wibbels was of the opinion that this would cause people to be more careful as they approach the street and that it is safer to have the parking aligned this way than to have it wrap around the street.

Hancock is unhappy that the Board is again being asked to correct something. He believes the parking situation and unusual layout of the area constitute a peculiar, unusual, or exceptional circumstance.

Wanser asked about the consequences of granting the waiver of the entire front yard setback and whether the number of parking spaces should be limited. Peo explained that the Board is being asked to waive front yard setback to allow parking in that space. They don't have to worry about the number of spaces, they are just dealing with the use.

Motion for approval carried 3-1; Wanser, Wibbels, and Hancock voting 'yes'; Carroll voting 'no'.

There being no further business, the meeting adjourned at 2:15 pm.